

# **DISADVANTAGED BUSINESS ENTERPRISE (DBE) APPLICATION INFORMATION**

## **What are the Basic Requirements?**

- **Group membership:**

If there is a reason to question whether an individual is a member of a group that is presumed to be socially and economically disadvantaged, that individual must demonstrate that he or she is a member of the group.

- **Presumption of disadvantage:**

It must be rebuttably presumed that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the Small Business Administration (SBA), are socially and economically disadvantaged.

Applicants must submit a signed and notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

Each individual owner of a firm applying to participate as a DBE whose ownership and control are relied upon for DBE certification is required to submit a signed and notarized statement of personal net worth, with appropriate supporting documentation. (Appropriate supporting documentation at this time is the last two years' U.S. Individual Income Tax Returns.) In determining net worth, an individual's ownership interest in the applicant firm and the individual's equity in his or her primary residence is excluded.

Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged may apply for DBE certification. A case-by-case determination will be made of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden to establish that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$750,000 shall not be deemed to be economically disadvantaged.

- **Business Size:**

To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by SBA standards. Current business size standard(s) found in 13 CFR Part 121 appropriate to the type(s) of work the firms seeks to perform in DOT-assisted contracts will be applied. A firm is not an eligible DBE in any fiscal year if the firm (including its affiliates) has had average annual gross receipts over the firm's previous three fiscal years, in excess of established size standards. This amount may be adjusted for inflation from time to time.

- **Ownership:**

To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals. In the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding. In the case of a partnership, socially and economically disadvantaged individuals must own at least 51 percent of each class of partnership interest, and this must be reflected in the firm's partnership agreement. In the case of a limited liability company, socially and economically disadvantaged individuals must own at least 51 percent of each class of member interest.

The firm's ownership by socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as determined by the substance, not merely the form, of arrangements.

- **Control:**

The socially and economically disadvantaged owners must possess the power to direct or cause the direction of management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy, and operations. A disadvantaged owner must hold the highest officer position in the company. In a corporation, disadvantaged owners must control the board of directors. In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

Individuals who are not socially and economically disadvantaged may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however, possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegation must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated.

The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to the type of business in which the firm is engaged and the firm's operations.

### **What is Required?**

- Complete the Application for Certification & Personal Financial Statement.
- Upon receipt of all the required forms and documents the Hawaii Department of Transportation (HDOT) staff will review the documents. The review takes about 14 days after which time an on-site review will be scheduled. The processing cannot be completed until all these documents are submitted. Additional documents may be required.
- On-site visit must be performed and will be scheduled by the HDOT staff except in cases where the HDOT has determined that prior on-site visits by other authorities are acceptable.

### **How Will You Know If You Are Certified?**

- Upon completion of the review, you will receive a letter of certification or a denial letter explaining the reasons and the appeals procedure.
- If you are certified, the certification is valid for a maximum of three years.
- Your certification must be updated annually through the submittal of a notarized change affidavit and submittal of the firm's most recently completed U.S. Corporation, Partnership or Schedule C of the Individual Income Tax Return.
- Complete the affidavit forms and **have it notarized.**
- All items not applicable should be indicated as "N/A". The completed application forms and required documentation should be mailed to:

State of Hawaii  
Department of Transportation  
Office Of Civil Rights (OCR)  
869 Punchbowl Street, Room 112  
Honolulu, Hawaii 96813

The information requested is necessary to determine whether your firm qualifies as a DBE according to the guidelines as established by the 49 Code of Federal Regulations (CFR) 26. The federal regulations governing the DBE program may be reviewed at <http://osdbuweb.dot.gov/business/dbe/index/html>.

For further assistance contact Ms. Alicia Miyahira, Monday through Friday, 7:45 a.m. to 4:30 p.m. at 587-6333, or email [alicia\\_miyahira@exec.state.hi.us](mailto:alicia_miyahira@exec.state.hi.us).

## **Instructions for Completing the Application**

### **Section I. - Page 5 & 6**

Complete according to directions.

### **Section II. – Page 6 & 7**

Complete according to directions.

### **Section III. – Page 8 & 9**

- A. State the name and title of the person(s) responsible for the duties listed in numbers one (1) through eight (8).
- B. Complete if appropriate.
- C. List the salaries or method of compensation for all owners, officers, and key personnel.
- D.
  - 1. State if any owner/principal/board member/officer owns stock in a similar type of company.
  - 2. State if any owner/principal/board member/officer is a current employee, owner, or former owner of any similar type of company.
  - 3. If you checked “Yes” to either one or two above, state the person's name, name of company, number of shares owned and position held.
- E. If changes occurred, state what they are.
- F. Based on the definition, if your firm is affiliated with any other business, complete 1, 2, 3, and/or 4.

### **Section IV. – Page 9 & 10**

- A. If your firm is certified with another agency, complete the information.
- B. If a site visit was conducted, check the “Yes” box.
- C. If your firm or any member of your firm was decertified, attach the documentation.

### **Section V – To be completed by professional consultants/contractors only – Page 10**

Check the one(s) that pertain to you. If your type of work is not listed, check the “Other” box and explain.

### **Section VI – To be completed by supplier/service providers only – Page 10**

If you are a supplier or service provider, check the appropriate box.

### **Section VII – To be completed by corporation only – Page 10**

- A.
  - 1. State how many shares of stock are available and in what authorized class.
  - 2. State the amount of shares that have been issued in each class.
  - 3. List all share holders and fill in the information requested.
- B. State if there are any changes in stock ownership in the past two (2) years. If yes, explain.
- C. If there are any limitations of voting rights, check “Yes” and explain.
- D. Complete the information for all board members.

### **Affidavit – Page 11**

Complete the form and have it notarized.

### **Attachments – Pages 12 & 13**

Submit the paperwork requested for your type of firm, i.e. sole proprietor, partnership, etc., with your application. The processing of your application will be faster if your application is completely filled out and all required paper work is attached.